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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON
12

13 INDUSTRIAL SYSTEMS &
14 FABRICATION, INC., a
15 Washington corporation,
16
17 Plaintiff,
18

19 v.

20 WESTERN NATIONAL
21 ASSURANCE COMPANY, a
22 Minnesota company
23
24 Defendants.
25

) NO. 2:14-CV-00046-RMP

) **PLAINTIFF'S MOTION AND**
) **MEMORANDUM TO QUASH**
) **SUBPOENA**

) **Date: July 7, 2014**

) **Time: 6:30 p.m.**

) **Without Oral Argument**
)
)

19 **I. MOTION**

20 Industrial Systems & Fabrication, Inc. ("Industrial Systems"), by and through
21 its attorneys of record, Dunn Black & Roberts, P.S., hereby moves the Court to quash
22 the subpoena propounded by Western National Assurance Company to Alex N. Sill
23 Company as the subpoena requests privileged information. This Motion is made
24
25

-- PLAINTIFF'S MOTION AND
MEMORANDUM TO QUASH
SUBPOENA - 1

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1 pursuant to Fed. R. Civ. P. 45, the Declaration of Adam J. Chambers, and the
2 pleadings of record filed herein.

3 II. FACTS

4 1. On May 27, 2014, Western National Assurance Company (“Western
5 National”) served a subpoena on Alex N. Sill Company. (Ex. A to Decl. of
6 Chambers).
7

8 2. The subpoena requests documents that contain attorney-client and work
9 product privilege. (See Ex. A to Decl. of Chambers).
10

11 3. To date, no documents have been produced. (Decl. of Chambers).
12

13 III. ARGUMENT

14 Western National subpoenaed Alex N. Sill Company regarding documents in
15 its possession and control. While all the documents relevant to Industrial Systems’
16 “*claim arising out of the fire*” have already been provided to Western National,
17 Western National now seeks to have these documents produced again, as well as
18 additional documents. However, Alex N. Sill has been working as an agent of
19 Industrial Systems and a consultant to Industrial Systems’ counsel. Therefore the
20 requested documents contain numerous attorney-client communications as. See State
21 v. Aguino-Cervantes, 88 Wn. App. 699, 707 (1997); State v. Gibson, 3 Wn. App.
22 596, 599 (1970); United States v. Kovel, 296 F.2d 918, 920 (2nd Cir. 1961).
24

25 Furthermore, the requested documents were generated in anticipation of litigation
-- PLAINTIFF’S MOTION AND
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1 with Western National and constitute work product. Under Fed. R. Civ. P.
2 45(c)(3)(A)(iii), the subpoena should be quashed. In the alternative, the Court should
3 modify the subpoena to prevent disclosure of any attorney-client/work product
4 privilege.
5

6 **IV. CONCLUSION**

7 Pursuant to the foregoing, Industrial Systems' Motion to Quash Subpoena
8 should be granted.
9

10 DATED this 5th day of June, 2014.

11 s/ ADAM J. CHAMBERS

12 ADAM J. CHAMBERS, WSBA #46631

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21 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of June, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send notification of such filings to the following:

- **Dana A Ferestien**
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s/ ADAM J. CHAMBERS

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